BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

WILLIAM D. PRICE) Claimant	
VS.	Docket No. 210,253
JRS QUIK LUBE Respondent	DOCKET NO. 210,233
AND	
AETNA CASUALTY & SURETY COMPANY Insurance Carrier	

ORDER

The respondent and its insurance carrier requested review of the preliminary hearing Order entered by Administrative Law Judge John D. Clark dated April 4, 1996.

Issues

The Administrative Law Judge ordered the respondent to provide claimant the names of three physicians from which to select an authorized treating physician and also ordered the respondent to pay outstanding medical expense. The respondent and its insurance carrier requested this review and contend the claimant failed to prove he sustained personal injury by accident arising out of and in the course of his employment with the respondent and, likewise, failed to prove he provided timely notice of accident as required by K.S.A. 44-520.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The preliminary hearing Order entered by the Administrative Law Judge should be affirmed. For purposes of preliminary hearing the claimant has established that he injured

his hands at work in December 1995 and January 1996. Based upon the evidence regarding the progression of claimant's hand symptoms through January 31, 1996, when he sought treatment at a local hospital's emergency room, the Appeals Board finds that claimant's accidental injury continued through that date and, therefore, claimant gave timely notice of accident as required by K.S.A. 44-520.

Because of the conflicting testimony presented, the Administrative Law Judge had to have found claimant a credible witness. The Administrative Law Judge personally observed the claimant and respondent's owner testify and was, therefore, in the unique and enviable position to assess their demeanor. In this instance, the Appeals Board gives some deference to the Judge's opinion of the witnesses' credibility.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge John D. Clark dated April 4, 1996, should be, and hereby is, affirmed.

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Dated this ____ day of June 1996.

BOARD MEMBER

c: Russell B. Cranmer, Wichita, KS
Dana D. Arth, Lenexa, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director